THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.10638 of 2006

Between:

A.Durgaiah and others.

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PETITIONERS

and

The Inspector of Police,
Anti Corruption Bureau and others.

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RESPONDENTS

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ORDER:

The petitioners question the letter addressed by the 1st respondent, dated 19-04-2006, to the 3rd respondent, requesting to cancel all the resolutions followed by registrations (Minut books) passed by the Managing Committee of the then Sri Venkateshwara Co-op. House Building Society, MLA's Colony, Banjarahills, Hyderabad, shown in column No.2 duly following procedure as the resolutions followed by registrations are not valid as per investigation.

In the said letter, at serial No.3, it is stated that the property admeasuring 200 sq. yards was covered by document No.5181/1993, dated 30-08-1993, and in which the 2nd petitioner encroached an extent of 256 sq. yards, wherein a house is situated worth about Rs.5,86,000/-. Similarly, at Sl.No.8, it is stated that the property admeasuring 400 sq. yards was covered by document No.820/96, dated 25-03-1996, and in which the 1st petitioner encroached an extent of 165 sq. yards, wherein a house and two shops are situated worth about Rs.3,96,000/-. Similarly, at Sl.No.9, it is stated that the property admeasuring 200 sq. yards was covered by document No.1290/01, dated 16-04-2001, and in which the 3rd petitioner encroached an extent of 608 sq. yards, wherein a house is situated worth about Rs.81,000/-.

It is stated that a case in Cr.No.16/ACB-CR-II/2001 was registered against one P.Narayana Rao, Assistant Telugu Translator, A.P. State Legislative Assembly, Hyderabad. During the course of investigation, it has come to the light about certain assets acquired by him in the 3rd respondent Society under a cover of resolutions passed by the 3rd respondent.

The learned counsel appearing for the petitioners submits that ACB has no power or authority under the Co-operative Societies Act to request the 3rd respondent to cancel the resolutions followed by registrations passed by the then Managing Committee of the 3rd respondent Society. It is further stated that if there are any irregularities or illegalities in passing the said Resolutions, it is for the 3rd respondent to take appropriate action to cancel the earlier resolutions. Therefore, police has no legal right to make such a request.

The learned counsel appearing for respondents 1 and 2 submits that in fact the statements of the 1st and 2nd petitioners were recorded under Section 164 Cr.P.C. before the VII Metropolitan Magistrate, Hyderabad, wherein the 1st petitioner stated that he has taken membership of the Co-operative Society after paying Rs.110/- and the Society allotted the said land and asked to deposit Rs.12,000/- or Rs.9,000/- in the name of the said society at State Bank of Hyderabad, Adarshanagar branch, and accordingly, he deposited the amount. Later, Sri Narayana Rao returned his deposited amount to him. He does not know what has happened subsequently. It is stated that he has nothing to do with the said plot since he has received his deposited amount through Sri Narayana Rao. Similarly, the 2nd petitioner also stated that the society allotted plot No.60-C/c, but he does not know where it is located. In the year 1989, he sold away the said plot to Sri Narayana Rao, who is working as Assistant Telugu Translator for Rs.80,000/-. After allotment of the plot, he paid Rs.2,500/- to the Society.

It is further stated that petitioners 1 and 2 themselves made

statements under Section 164 Cr.P.C. before the concerned Magistrate, disowning the said properties stating that the said properties belong to one Narayana Rao. In fact, the said properties were shown as the immovable properties acquired by the said Narayana Rao to his unknown sources of income.

The fact remains that the petitioners are claiming the said properties as their own and if the petitioners do not stick to 164 Cr.P.C. statements, as witnesses before the concerned A.C.B. Court, it is for the A.C.B. Authorities to take appropriate action against them. Further, if there are any illegalities or irregularities on the part of the petitioners, it is for the concerned employer to take any departmental action even under the pension rules for acquiring the said property. But, however, the said letter addressed by the 1st respondent to the 3rd respondent is without any authority of law and therefore, it cannot be sustained.

Accordingly, the writ petition is allowed setting aside the letter, dated 19-04-2006, addressed by the 1st respondent to the 3rd respondent. There shall be no order as to costs.

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12-03-2007

Prv